



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,879	01/23/2004	Donald L. Payne	Payne	6007
7590	05/02/2006		EXAMINER	
Joseph H. Beumer Suite 1602 D 555 Sparkman Drive Huntsville, AL 35816			TRAN, HANH VAN	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 05/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/763,879	PAYNE, DONALD L.	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 February 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,2,4 and 10-15 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-2, 4, 10-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 2/16/2006.

Claim Objections

2. Claims 4, 10-15 are objected to because of the following informalities: claim 4, line 4, "of said of said" should be "of said". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2, 4, 10-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, since line 14 already recited "a sheet panel support, the recitation on line 15 of "a sheet panel support" renders the claim, and its depending claims, indefinite for failing to clearly define whether it is the same as the sheet panel support recited on line 14. Should applicant's intent is to claim a "sheet panel support and tensioner", then it should be rephrased such that it is clear.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 3637

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1, 2, 4, 10, 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fridolph in view of USP 4,800,947 to Loomis.

Fridolph discloses a decorative cabinet door assembly comprising all the elements recited in the above listed claims including, such as shown in Figs 3-5, a generally rectangular frame 40 including an upper frame member, a lower frame member disposed across from said upper frame member, a pair of opposing side members and an open space defined between said members; a flexible sheet panel 42 covering said open space and removably extending straight through a slot in one of said upper and lower members to an outer edge of said one member, said flexible sheet member also extending straight into an opposed one of said upper and lower members; said panel 42 including at opposing ends thereof sheet panel support/tensioner 34 for applying tension force to the panel; and said first and second frame members including means for receiving said panel ends and for retaining the same until removed; wherein said sheet comprises a fabric, a groove 48,50 along an outer edge of said one of said upper and lower members and communicating in parallel relation with said slot.

Fridolph discloses all the elements as discussed above except for said sheet panel support comprises an upper, tubular loop contiguous with and formed from said fabric sheet panel and extending across an upper side of said of said panel, a lower loop extending across a lower side of said panel, a first dowel pin disposed in said upper

Art Unit: 3637

loop, a second dowel pin disposed in said lower loop, said groove sized to receive a one of said first dowel pin and a second dowel pin, so that a respective said dowel pin is insertable through a said first tubular loop or second tubular loop after said tubular lop is passed through said slot, thereby securing said sheet panel in place in said one of said upper and lower members.

Loomis teaches the an alternate structure of providing an assembly for suspending a flexible sheet material in taut condition comprising an upper loop extending across an upper side of said of said panel, a lower loop extending across a lower side of said panel, a first dowel pin disposed in said upper loop, a second dowel pin disposed in said lower loop in order to facilitate installation and removal of the flexible sheet material. Fridolph also discloses the end portions sheet panel support 34 received in the grooves 48,50 to secure the sheet panel in place in said one of said upper and lower members. Therefore, it would have been obvious to modify the structure of Fridolph by providing said sheet panel support comprising an upper loop extending across an upper side of said of said panel, a lower loop extending across a lower side of said panel, a first dowel pin disposed in said upper loop, a second dowel pin disposed in said lower loop in order to facilitate installation and removal of the flexible sheet material, as taught by Loomis, such that said groove sized to receive a one of said first dowel pin and a second dowel pin, so that a respective said dowel pin is insertable through a said first tubular loop or second tubular loop after said tubular lop is passed through said slot, thereby securing said sheet panel in place in said one of said upper and lower members, since both teach alternate conventional of providing an

assembly for suspending a flexible sheet material in taut condition, used for the same intended purpose, thereby providing structure as claimed.

Allowable Subject Matter

8. Claims 11, 14-15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed 2/16/2006 have been fully considered but they are not persuasive. In response to applicant's argument on page 2 that Fridolph fails to disclose a sheet panel support disposed along an outer edge of one of the upper and lower frame members, the examiner takes the position that the claimed language fails to clearly "an outer edge", thus the outer edge of the frame members of Fridolph being defined as the edge portion facing the reader as shown in Fig 3, with the opposite side as the inner edge.

10. In response to applicant's argument that it is not seen how the mounting brackets of Loomis may be used in combination with the decorative purposes of Fridolph, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Further, Loomis is used for the teaching of the elements as stated in the above-art rejection, not the teaching of its brackets.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT *HVT*
April 30, 2006

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Lanna Mai